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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,142	11/21/2006	Hiromi Takarada	TOR-06-1354	8937
35811 7590 10/26/2011 IP GROUP OF DLA PIPER LLP (US) ONE LIBERTY PLACE 1650 MARKET ST, SUITE 4900 PHILADELPHIA, PA 19103				
EXAMINER				
SALVATORE, LYNDIA				
ART UNIT		PAPER NUMBER		
1786				
NOTIFICATION DATE		DELIVERY MODE		
10/26/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pto.phil@dlapiper.com

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/594,142

Applicant(s)

TAKARADA ET AL.

Examiner

LYNDA SALVATORE

Art Unit

1786

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 September 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(g).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 1-3, 6 and 7.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Lynda Salvatore/
Primary Examiner
Art Unit 1786

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's amendment to claim 1 is not found persuasive to overcome the combination of cited prior art.

With regard to the melt-spun limitation, the Examiner maintains that sufficient motivation exists to combine the cited references to evidence that it is known in the art to melt spin the claimed cellulose acetate propionate material. Aranishi et al., clearly teaches forming a melt-spun filament from the cellulose acetate propionate. There is nothing in the teachings of Chen et al., or Aranishi et al., to teach or fairly suggest that melt-spinning the cellulose acetate propionate results in a loss of mechanical properties and/or produces a filament having non-uniform cross section or deformations. It appears that cellulose acetate can be formed into filaments not only by wet or dry spinning but melt spinning as well. Based on the combination of prior art teachings it is the position of the Examiner that one of ordinary skill in the art would recognize and select a spinning method as a function of manufacturing costs, ease of manufacture, equipment and/or the type of fiber properties desired.

With regard to the Examiner's reliance on a combination of two references to evidence inherency, the Examiner agrees. However, the Examiner also submitted an alternative argument which stated: it is the position of the Examiner that is reasonable to expect that the claimed molecular weight of the acyl units, initial tensile modulus, glass transition temperature or CV properties would be present and/or exhibited once the knitted or woven fabric taught by Chen et al., in view of Aranishi et al., is provided. Support for said presumption is found in the use of like materials such as a cellulose ester fiber and the use of like processes such as forming a knitted or woven fabric from melt-spun continuous filaments, which would result in the claimed glass transition temperature and CV properties. Applicant is invited to prove otherwise. .